

REMARKS

Claims 4, 5, and 9-11 are canceled. Claims 2, 3, and 6-8 are amended. New claims 12-20 are added. The application now includes claims 1-3, 6-8, and 12-20.

Claim 2 is amended to include additional indent sections for clarity, and to correct for antecedent basis.

Claim 3 is amended to correct for antecedent basis and to remove language concerning the word “preferably”. New claim 12 includes features which were canceled from claim 3.

Claim 4 has been canceled and is substantively re-written as new claim 13. Since “X” was used in claim 1, claim 14 uses the variable “X”. In addition, the terminology for “n” has been corrected to be 1 or 2, and reference to the variable R^s has been eliminated.

Claim 5 has been canceled and is substantively re-written as new claim 14, and where the preferred aryl is presented in new claim 15.

Claim 6 is amended to independent form to contain the features of claim 1. In addition, the variable X” is used to represent a halogen in the recited metallocene complex. New claim 16 requires the reaction to proceed in an inert solvent.

Claim 7 is amended to independent form to contain the features of claim 1.

Claim 8 is amended to eliminate reference to “preferably”. New claim 17 recites the preferred cocatalyst with specificity.

Claims 9-11 have been canceled and new claims 18-20 have been added. New claim 18 is drawn to substantially the same subject matter as claim 9 and now specifies a the method of catalyzing a polymerization reaction by combining a bimetallic complex (which is defined identically with claim 1) with materials to be polymerized and using the complex as a catalyst in the reaction. Claims 19 and 20 are similar to the cocatalyst claims 8 and 17.

Claims 3, 5, 6, and 8-11 were rejected under 35 U.S.C. 112, second paragraph. Claims 9-11 were rejected under 35 U.S.C. 101. The amendments above address these rejection. Claims 3, 6, and 8 no longer includes the recitation of a narrower range with the modifier “preferably”. As noted above, elements of the claims which followed the “preferably” modifier are presented as new

dependent claims. Claims 6 and 7 have been amended to independent form. Claim 18 has been substituted for claim 9 and specifies a method of polymerization. Claims 18-20 satisfy the requirements of both 35 U.S.C. 101 and 35 U.S.C. 112, second paragraph.

Each of independent claims 6, 7, and 18 specify the same bimetallic complex set forth in claim 1. The Commissioner is authorized to charge for one additional independent claim.

All claims were rejected as being anticipated by Bai *JACS* 127:3449-3455, Feb. 2005. This rejection is traversed.

As will be recognized by the Examiner, the *JACS* article was authored by a group which includes the inventive entity of the present case.

Furthermore, as noted in the office action, the application claims priority to EP 040006357.0 filed March 17, 2004 and DE 10 2004 055 922.8 filed November 19, 2004. Verified English language translations of both documents are attached to this response. These verified English language translations demonstrate that the claimed invention has priority to a date which precedes the publication date of the *JACS* reference.

The European patent application for which priority is claimed provides support for certain complexes known at that time. Subsequently, these complexes described in EP 04006357.0 were published in *JACS* 127:3449-3455 February, 2005. In the interim, the additional German application from which priority is claimed in the present case was filed November 16, 2004 which describes and claims more ligands/residues for the same complexes.

Review of the translations shows that the EP 04006357.0 filing supports the independent claim 1. See page 2 of the translation in the middle of the page. In addition, the translation for EP 0 4006357.0 supports a number of the independent and dependent claims in the case (see, e.g., for new claim 13 and canceled claim 4 refer to the structure on page 3 of the translation; for new claims 14 and 15 and canceled claim 5 refer to the top of page 4 of the translation; for independent claim 6 and new claim 16 refer to the synthesis procedures on page 8 and 9 of the translation; for use in a catalyst preparation as defined in independent claim 7 see the bottom of page 9 of the translation (see also the top paragraph of page 10 of the translation for support for the use of aluminoxane as set forth in

claim 8))

Review of the translations shows that DE 10 2004 055 922.8 filing supports the dependent claim 2. See, for example, the paragraph at the top of page 4, etc.

In view of the foregoing, it is respectfully requested that the application be reconsidered, that claims 1-3, 6-8, and 12-20 be allowed, and that the application be passed to issue.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

A provisional petition is hereby made for any extension of time necessary for the continued pendency during the life of this application. Please charge any fees for such provisional petition and any deficiencies in fees and credit any overpayment of fees to Attorney's Deposit Account No. 50-2041.

Respectfully submitted,



Michael E. Whitham
Reg. No. 32,635

Whitham, Curtis, Christofferson & Cook, P.C.
11491 Sunset Hills Road, Suite 340
Reston, VA 20190

Tel. (703) 787-9400
Fax. (703) 787-7557

Customer No.: 30743